

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (CINCINNATI)

BARBARA JACKSON,	:	CASE NO. 1:15-CV-00587-MRB
	:	
Plaintiff,	:	(Judge Michael R. Barrett)
	:	
v.	:	ORDER GRANTING
	:	PRELIMINARY APPROVAL OF
PROFESSIONAL RADIOLOGY, INC., <u>et al.</u>	:	THE SETTLEMENT,
	:	CERTIFICATION OF A
Defendants.	:	TENTATIVE SETTLEMENT
	:	CLASS, AND APPOINTMENT OF
	:	<u>LEAD CLASS COUNSEL</u>

This matter comes before the Court on the Parties' Joint Motion for Preliminary Approval of Settlement Agreement, Certification of a Tentative Settlement Class, and Appointment of Lead Class Counsel ("Motion"). The Court has reviewed the Motion and the Class Action Settlement Agreement and Release ("Agreement") entered into by Plaintiff with Defendants Professional Radiology Inc., and M.D. Business Solutions, Inc. ("Defendants"), and finds that the Motion should be GRANTED.

NOW, THEREFORE, the Court hereby **FINDS, CONCLUDES AND ORDERS:**

1. The Court does hereby preliminarily and conditionally approve, for settlement purposes, the following Class:

All individuals who are enrollees, subscribers, insureds, and/or beneficiaries of health insurance or a health insurance corporation from whom PRI and/or MDB, along with their agents, servants, benefits coordinators, and/or employees, sought payment.

All federal judges to whom this case is assigned and members of their families within the first degree of consanguinity, and officers and directors of MDB and PRI, are excluded from the class definition.

2. Based upon information provided: the class is ascertainable; it numbers in the hundreds, satisfying numerosity; there are common questions of law and fact, including whether the billing practices of Defendants were proper, satisfying commonality; the proposed Class Representative's claims are typical, in that she is a member of the Class and alleges she has been damaged by the same conduct as others members of Class; the proposed Class Representative and Class Counsel can fully, fairly and adequately protect the interests of the Class; question of law and fact common to members of the Class predominate over questions affecting only individual members for settlement purposes; and a nationwide class action for settlement purposes is superior to other available methods for the fair and efficient adjudication of this controversy.

3. The Court appoints Plaintiff Barbara Jackson as the Class Representative of the Class.

4. The Court appoints Gary F. Franke and Michael D. O'Neill of GARY F. FRANKE CO., L.P.A., and C. David Ewing of Ewing & Willis as Class Counsel for the Class.

5. The Court does hereby preliminary approve the Settlement as being fair, reasonable, and adequate as to Class Members, subject to further consideration at the Fairness Hearing described below.

6. A hearing (the "Fairness Hearing") shall be held before the Court on March 3, 2022 at 12:00 p.m. for the following purposes:

a. To determine whether the proposed Settlement on the terms and conditions provided for by the Agreement is fair, reasonable, and adequate to the Class and should be approved by the Court;

b. To determine whether a Final Approval Order, as defined in the Agreement, should be entered;

c. To determine whether Plaintiff's application for attorneys' fees and reimbursement of expenses, and requested Incentive Award for the Class Representative, should be approved; and

d. To rule upon such other matters as the Court may deem appropriate.

7. All Class Members shall be bound by all determinations and judgments in the class action concerning the Settlement, including, but not limited to, the releases provided for in the Agreement, whether favorable or unfavorable.

8. Pending final determination of whether the Agreement should be approved, Class Counsel, Plaintiff and Class Members are barred and enjoined from commencing or prosecuting any action asserting any Released Claims against Defendants.

9. All papers in support of the Settlement shall be filed no later than 14 days prior to the scheduled Fairness Hearing.

10. Any Class Member may appear and show cause, if that Class Member has any reason why the proposed Settlement should not be approved as fair, reasonable, and adequate, or why Class Counsel's application for an award of attorneys' fees and for reimbursement of expenses should not be granted; provided, however, that no person shall be heard or entitled to contest such matters unless that person has delivered by hand or sent by first class mail sufficient written objections and copies of all papers and briefs any such person wishes to submit in support of any such objection delivered or post-marked no later than 30 days prior to the scheduled Fairness Hearing to each of the following:

OFFICE OF THE CLERK
Potter Stewart U.S. Courthouse
Room 103

100 East Fifth Street
Cincinnati, Ohio 45202

GARY F. FRANKE CO., L.P.A.
Gary F. Franke
120 East Fourth Street, Suite 1040
Cincinnati, Ohio 45202
Class Counsel

FARUKI PLL
Stephen A. Weigand
201 East Fifth St.
Suite 1420
Cincinnati, OH 45202
Counsel for Defendants

11. Any person who does not make his, her, or its objection in the manner provided in this Order shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as set forth in the Agreement, unless otherwise ordered by the Court. Any papers in response to any such objections or in further support of the above-named motions shall be filed no later than 7 days before the Fairness Hearing.

12. This Order, the Agreement, and the Settlement, and any of their terms, and all negotiations, discussions, and proceedings in connection with this Order, the Agreement, and the Settlement, shall not constitute evidence, or an admission by Defendants that any acts of wrongdoing have been committed and shall not be deemed to create any inference that there is any liability on the part of Defendants. This Order, the Agreement, and the Settlement, and any of their terms, and all negotiations, discussions and proceedings in connection with this Order, the Agreement and the Settlement shall not be offered or received in evidence or used for any purpose in this or any other proceeding in any court, administrative agency, arbitration tribunal, or other

forum of any kind or character in the United States or any other country except as necessary to enforce the terms of this Order or the Settlement.

13. The Court reserves the right to adjourn the date of the Fairness Hearing without further notice to the Class Members and retains jurisdiction to consider all further applications or matters arising out of or connected with the proposed Settlement. The Court may approve the Settlement, with such modifications as may be agreed to by the Plaintiff and Defendants, if appropriate, without further notice to the Class.

Per Federal Rule of Civil Procedure 23(a)(b)(2) and (e), the Joint Motion for Preliminary Approval of Settlement Agreement, Certification of a Tentative Settlement Class, and Appointment of Lead Class Counsel is hereby **GRANTED**.

IT IS SO ORDERED.

/s/ Michael R. Barrett

UNITED STATES DISTRICT JUDGE